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16 **UNITED STATES DISTRICT COURT FOR THE
17 NORTHERN DISTRICT OF CALIFORNIA**

18 REGENTS OF UNIVERSITY OF
19 CALIFORNIA and JANET NAPOLITANO,
20 in her official capacity as President of the
21 University of California,

22 Plaintiffs,

23 v.

24 UNITED STATES DEPARTMENT OF
25 HOMELAND SECURITY and KIRSTJEN
M. NIELSEN, in her official capacity as the
Secretary of Homeland Security,

26 Defendants.

27 No. 3:17-cv-05211-WHA

28 **DECLARATION OF
BRAD P. ROSENBERG**

1
2 STATE OF CALIFORNIA, STATE OF
3 MAINE, STATE OF MARYLAND, and
STATE OF MINNESOTA,

4 Plaintiffs,

5 v.
6 U.S. DEPARTMENT OF HOMELAND
7 SECURITY, KIRSTJEN M. NIELSEN, in her
official capacity as Secretary of Homeland
8 Security, and the UNITED STATES OF
AMERICA,

9 Defendants.

10
11 No. 3:17-cv-05235-WHA

12 CITY OF SAN JOSE, a municipal
13 corporation,

14 Plaintiff,

15 v.
16 DONALD J. TRUMP, President of the United
17 States, in his official capacity, KIRSTJEN M.
NIELSEN, in her official capacity as
Secretary of Homeland Security, and the
18 UNITED STATES OF AMERICA,

19 Defendants.

20
21 No. 3:17-cv-05329-WHA

22 DULCE GARCIA, MIRIAM GONZALEZ
AVILA, SAUL JIMENEZ SUAREZ,
23 VIRIDIANA CHABOLLA MENDOZA,
NORMA RAMIREZ, and JIRAYUT
24 LATTHIVONGSKORN,

25 Plaintiffs,

26 v.
27 UNITED STATES OF AMERICA,
28 DONALD J. TRUMP, in his official capacity

DEFENDANTS' RESPONSE TO MOTION FOR JUDICIAL NOTICE – DECLARATION OF BRAD P. ROSENBERG
All DACA Cases (Nos. 17-5211, 17-5235, 17-5329, 17-5380, 17-5813)

1 as President of the United States, U.S.
2 DEPARTMENT OF HOMELAND
3 SECURITY, and KIRSTJEN M. NIELSEN,
4 in her official capacity as Secretary of
5 Homeland Security,

6 Defendants.

7 COUNTY OF SANTA CLARA and
8 SERVICE EMPLOYEES INTERNATIONAL
9 UNION LOCAL 521,

10 Plaintiffs,

11 v.

12 DONALD J. TRUMP, President of the United
13 States, in his official capacity; JEFFERSON
14 BEAUREGARD SESSIONS, Attorney
15 General of the United States, in his official
capacity; KIRSTJEN M. NIELSEN, Secretary
of Homeland Security, in her official capacity;
and the U.S. DEPARTMENT OF
16 HOMELAND SECURITY,

17 Defendants.

No. 3:17-cv-05813-WHA

18 I, Brad P. Rosenberg, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

19 1. I am a Senior Trial Counsel at the U.S. Department of Justice, Civil Division,
20 Federal Programs Branch. In that capacity I serve as lead counsel for the defendants in the
21 above-captioned, related matters. The statements contained in this declaration are based on my
22 personal knowledge or upon information provided to me in my official capacity.

23 2. Attached hereto as Exhibit A is a true and correct copy of a letter published on
24 The New York Times's website. I obtained a copy of the letter on January 4, 2018 from the
25 website: <https://www.nytimes.com/interactive/2018/01/03/us/politics/document-Letter-on-DACA-From-Former-Homeland-Security.html>.

1 I declare under penalty of perjury that the foregoing is true and correct.
2 Executed this 5th day of January, 2018.
3
4

5 /s/ Brad P. Rosenberg
6 BRAD P. ROSENBERG
Senior Trial Counsel
U.S. Department of Justice
Civil Division, Federal Programs Branch

Exhibit A

January 3, 2018

The Honorable Mitch McConnell
Majority Leader, U.S. Senate
Washington, DC 20510

The Honorable Charles E. Schumer
Democratic Leader, U.S. Senate
Washington, DC 20510

The Honorable Ron Johnson
Chair of Homeland Security Committee, U.S. Senate
Washington, DC 20510

The Honorable Michael McCaul
Chair of Homeland Security Committee, U.S. House
of Representatives
Washington, DC 20515

The Honorable Paul D. Ryan
Speaker, U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader, U.S. House of Representatives
Washington, DC 20515

The Honorable Claire McCaskill
Ranking Member, U.S. Senate
Washington, DC 20510

The Honorable Bennie G. Thompson
Ranking Member, U.S. House of Representatives
Washington, DC 20515

Dear Leader McConnell, Minority Leader Schumer, Speaker Ryan, Minority Leader Pelosi, Chairman Johnson, Chairman McCaul, Ranking Member McCaskill, and Ranking Member Thompson:

We write to you today as Congress considers legislation to allow certain young immigrants, known as Dreamers, who came to the country as children, to be able to continue to live, work and contribute to our country. We write not only in strong support of this legislation, but to stress that it should be enacted speedily, in order to meet the significant administrative requirements of implementation, as well as the need to provide certainty for employers and these young people. For these reasons, the realistic deadline for successfully establishing a Dreamers program in time to prevent large scale loss of work authorization and deportation protection is only weeks away, in the middle of January.

As former Secretaries of the Department of Homeland Security, we are acutely aware of the challenges that must be met and the time necessary for DHS to implement a system to effectively adjudicate applications for status adjustments by Dreamers. There is a misconception that because President Trump rescinded the program in a fashion where the number of individuals losing DACA escalates dramatically starting March 5th, there is no urgency about addressing Dreamer's status or that this executive authorization can be further extended. In fact, DACA has been rescinded and legislation is the only permanent way to prevent these Dreamers from losing work authorization and becoming subject to immediate deportation.

Establishing a program to effectively adjudicate a new immigration application system must be done responsibly. Career officials at USCIS are well trained, but creating a secure and reliable process will take time, followed by a period of months to ensure individual applicants are thoroughly reviewed. For context, in 2012 when DACA was established, it took nearly 90 days before the first applications were approved. Even if it only takes half of that time for USCIS to establish a DACA process under legislation, Congress needs to pass a bill by January 19th to provide enough time for USCIS to process applications before tens of thousands of DACA recipients are negatively impacted by the loss of their work authorization or removal from the United States. This 45 day timeline - leading into March 5th when the number of DACA recipients losing status skyrockets to an average of 1,200 a day - is very aggressive, but should be seen as an actual best-case deadline based on our collective experience with these

administrative and security requirements.

DACA provides recipients protection from deportation and an employment authorization document (EAD) which needs to be renewed every two years. Once legislation is passed, applicants will have to apply through this new process. If an individual's DACA lapses in the meantime, the individual would lose his or her ability to work legally and, depending on the legislation, would be subject to immediate deportation until they could receive the benefits of this new legislative program. Delay in enacting DACA legislation would inject serious uncertainty for businesses who currently employ Dreamers, as well as for the large numbers of DACA beneficiaries who must fear that they will be fired and forced to hide until this new program is established and the new application process is underway.

Over 90% of DACA recipients are currently employed. Every week of delay means thousands of new DACA recipients losing work authorization, negatively impacting the business community by creating uncertainty for all businesses employing DACA recipients. DACA recipients work in every sector of the US economy. Congressional delay past the next few weeks will force the employers of hundreds of thousands of DACA recipients into a state of instability, in which they have to plan for losing these critical employees. The 690,000 DACA recipients - who came to this country at the average age of six and have lived here twenty years - deserve certainty as well. Our country is better if these individuals do not have to spend the next few months planning for a future where they cannot work legally and could be deported at any time, many to countries they do not remember.

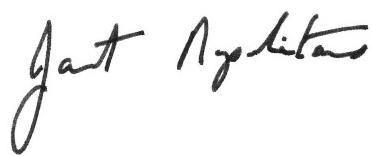
To ensure a successful implementation of DACA legislation, Congress should pass bipartisan legislation in the next few weeks to allow these young people to continue to fully contribute to this country. We are also optimistic that this legislation could include sensible increases in border security funding. Illegal border crossings of the southwest border have dropped to the lowest point in modern history, but bipartisan legislation provides an opportunity to both permanently protect these young people and further secure the border.

Ultimately, Congress must decide whether to pass legislation to permanently protect these young people from deportation and allow them to continue contributing to the only nation they have known. As former Secretaries of the Department of Homeland Security, we urge them to do so and to act now. Not only is there no reason to delay, but establishing this new program in 45 days would be an incredible accomplishment done in record time. This means Congress must act by the middle of January to ensure a successful program, avoid significant hardship for USCIS, the business community and Dreamers themselves.

Sincerely,



Michael Chertoff



Janet Napolitano



Jeh Johnson